

**Before the State of South Carolina  
Department of Insurance**

In the matter of:

Martha A. Smith  
1936 Butts Street  
Georgetown, S.C. 29440.

File Number: 124965

**Default Order Revoking  
All Insurance Producer's Licensing  
Privileges**

This matter comes before me pursuant to a Letter of Allegation and Notice of Opportunity for Public Hearing served, as required within S.C. Code Ann. § 38-3-170 (Supp. 2004), by the State of South Carolina Department of Insurance upon above named respondent, by both certified mail, return receipt requested, and by regular mail on April 28, 2005.

By that letter, Ms. Smith was informed of her right to request a public hearing upon the allegations of impropriety contained within the letter against her. Further, she was warned that her failure to make a timely, written request would result in my summary revocation of her license to do business as a resident insurance producer within the State of South Carolina. Despite that warning, Ms. Smith has failed to request a public hearing. However, in a hand written one paragraph letter, dated May 9 of the current year, Ms. Smith informed the Department that she had already surrendered her producer's license to her previous employer, upon being fired. On June 3<sup>rd</sup>, 2005, therefore, counsel for the Department filed an Affidavit of Default, and the entire matter was submitted directly to me for my summary decision based solely on the record.

The letter alleged, and I now find as fact, that while licensed to do business as a resident insurance producer within the State of South Carolina, Martha Smith was terminated for cause by her employer, and subsequently convicted, of the crime of "Breach of Trust with Fraudulent Intent, more than \$5,000, in Georgetown County; Docket Number: 2003GS2200984".

S.C. Code Ann. § 38-43-130 (Supp. 2004) provides: "The director or his designee may suspend or revoke an agent's license after ten day's notice...when it appears that an agent has violated this title or any regulation promulgated by the Department, or has willfully deceived or dealt unjustly with the citizens of this State. Subsection (C)(6) defines "deceived or dealt unjustly with the citizens of this State" to include, but not limited to, action or inaction by the producer as follows: "having been convicted of a felony." (C)(8) also states: "using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this State or elsewhere." Moreover, on (C)(4): "improperly withholding, misappropriating, or converting any monies or properties in the course of doing insurance business."

In accordance with my findings of fact, and considering Martha A. Smith's failure to avail herself of her opportunity to be heard, I now conclude, as a matter of law, that she was, in fact, convicted of the crime of "Breach of Trust, with Fraudulent Intent", which is a crime of moral turpitude. Therefore, all her insurance licensing privileges should be revoked.

This administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-40-10, *et seq.* (1991 and Supp. 2004). Nothing contained within this administrative disciplinary order should be construed to limit or to deprive any person of any private right of action under the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the law relative to the business of insurance or the provisions of this title which he considers necessary to report." S.C. Code Ann. § 38-3-110 (4) (Supp. 2004).

It is therefore ordered that Martha Smith's license to transact business as a resident insurance producer within the State of South Carolina be, and is hereby, revoked, and that no license, issued through the State of South Carolina Department of Insurance is to be issued to her.

It is further ordered that a copy of this order be transmitted to the National Association of Insurance Commissioners for distribution to its current member states and to each insurer for which Ms. Smith is currently licensed, through the State of South Carolina Department of Insurance, as a resident insurance producer within the State of South Carolina.

This order takes effect upon the date of my signature below.



Eleanor Kitzman  
Director

June 16, 2005, at  
Columbia, South Carolina

**Before the State of South Carolina  
Department of Insurance**

In the matter of:

Martha A. Smith  
1936 Butts Street  
Georgetown, S.C. 29440.

SCDOI File Number 124965

**Affidavit of Default**

Personally appeared before me Joseph D. McMaster, who, being duly sworn, stated that at all times relevant to this Affidavit of Default he was an attorney representing the State of South Carolina Department of Insurance in this administrative action. He further stated the following:

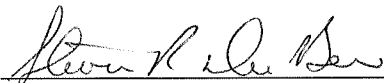
The Department served notice on Martha Smith at the address detailed above, by a Letter of Allegation and Notice of Opportunity for a Public Hearing that the Department would request the Director of Insurance to summarily revoke her license to act as a resident insurance producer within the State of South Carolina in thirty days. The Department served the Notice, pursuant to S.C. Code Ann. § 38-3-170 (Supp. 2004), by "depositing it in the United States mail, postage prepaid, addressed to the last known address of the person and registered with the return receipt requested." That Notice further informed Ms. Smith of her opportunity, within thirty days, to request in writing a public hearing.

The United States Postal Services effected service of the Notice by certified mail, return receipt requested, and by regular mail, on or about May 2, 2005, at the last known address. Our Department then received a one- paragraph letter, signed by Ms. Smith on May 9, 2005, along with our Letter of Allegation torn in half. In said letter, Ms. Smith expressed her willingness to Surrender her License, adding that however "it had already been taken by her ex-employer, upon her termination. Martha Smith has made no request for a public hearing. The time in which to do so has expired. She is now in default.

  
Joseph D. McMaster  
Associate General Counsel

South Carolina Department of Insurance  
Post Office Box 100105  
Columbia, South Carolina 29202-3105  
(803) 737-6132

Sworn to and subscribed before me  
This 6 day of June, 2005.



Steven R. DuBois  
Notary Public for the State of South Carolina  
My Commission Expires May 10, 2009